

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THERESA MARCIANTI,

Defendant.

2:11-CR-00452-PMP-CWH

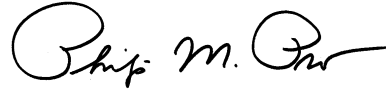
ORDER

Having read and considered Defendant Marcianti's fully briefed Motion for New Trial Based on Newly Discovered Evidence (Doc. #167), the Court finds that Defendant Marchianti has failed to satisfy the requirements under Rule 33 of the Federal Rules of Criminal Procedure to support the relief requested.

First, as noted by the Government in its Response (Doc. #174), evidence that trial witness Suzanne McAllister worked for Jamie Skelton during the time she participated in fraudulent activity, is not "newly discovered" evidence. Further, evidence that McAllister lived in a house controlled by Lloyd Gardley during a period relevant to her testimony does not undermine confidence in the jury verdict. The evidence concerning Defendant Marcianti's guilt was substantial, and the trial jury was instructed to evaluate McAllister's testimony with greater caution than it would accord to most other witnesses. The Court finds that given the substantial evidence before the jury to assist it in evaluating McAllister's credibility, the new information cited by Defendant Marcianti would have made no difference in the result.

1 **IT IS THEREFORE ORDERED** that Defendant Theresa Marcianti's Motion
2 for New Trial (Doc. #167) is DENIED.

3 DATED: June 13, 2014.

4 

5

PHILIP M. PRO
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26